

**REQUEST FOR PROPOSALS**  
**CDBG**  
**GRANT ADMINISTRATION SERVICES**  
**City of Key West RFP # 22-007**

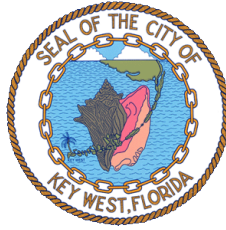


**MAYOR: TERI JOHNSTON**

**COMMISSIONERS:**

**JIMMY WEEKLEY  
SAM KAUFMAN  
BILLY WARDLOW**

**LISSETTE CAREY  
MARY LOU HOOVER  
CLAYTON LOPEZ**



**SUBJECT:** CITY OF KEY WEST  
REQUEST FOR PROPOSALS # 22-007  
CDBG GRANT ADMINISTRATION SERVICES

**ISSUE DATE:** April 7, 2023

**MAIL OR DELIVER RESPONSES  
TO:**

City Clerk  
City of Key West  
1300 White Street  
Key West, Florida 33040

**CLARIFICATION SUBMITTAL  
DEADLINE:**

April 26, 2023, 3:30 p.m. LOCAL TIME

**RESPONSES DEADLINE DATE:**

May 10, 2023, 3:30 p.m. LOCAL TIME

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## **CITY OF KEY WEST RFP # 22-007**

### **CDBG GRANT ADMINISTRATION SERVICES**

#### **A. GENERAL**

##### A.1 Purpose

The City of Key West (the “City”) is requesting proposals from qualified consulting firms (“Proposer” or “Respondent”) to provide Community Development Block Grant (CDBG) grant administration services. The term of the consulting services agreement is expected to be four (4) years with the option of a one (1) year renewal.

These services are federally funded with Community Development Block Grant-Disaster Recovery (CDBG-DR), Community Development Block Grant-Mitigation (CDBG-MIT), and Community Development Block Grant-Coronavirus (CDBG-CV) funding through the Florida Department of Economic Opportunity. The City has been awarded funds with the following Agreement numbers - CDBG-DR: IR008 and IR037; CDBG-MIT: MT010, MT011, MT050, MT051, and IR043; and CDBG-CV: 22CV-S14. Total project funding from the disaster recovery, mitigation, and coronavirus CDBG programs combined is over \$21 million of which a maximum of 5% of the award amount can fund grant administration.

##### A.2 Background

Incorporated as a city since January 8, 1828, Key West occupies a 7.243 square mile area encompassing the island of Key West, the portion of Stock Island north of U.S. 1, Sigsbee Park (north, originally known as Dredgers Key), Fleming Key (north), and Sunset Key (west). Both Fleming Key and Sigsbee Park are part of Naval Air Station Key West. The city is the southernmost city in the continental US and is the County seat of Monroe County. Land access is provided by US 1, air access is provided by the Key West International Airport, and sea access by the Port of Key West. The island’s natural perimeter restricts the expansion of its boundaries. Unincorporated Monroe County to the north is the only adjacent local government. The city’s 2021 permanent population is 23,342 with over 3 million visitors annually. The City of Key West is governed by a six-member City Commission and a Mayor. The City Manager is responsible for the complete administrative management and delivery of city services and programs. There are 15 City Departments (including Police and Fire) responsible for 2 marinas, 44 parks and beaches, 1 community pool, 65 miles of city road, 1 assisted living facility, 3 fire stations, 1 pedestrian bridge and 3 boat ramps.

##### A.3 Grant Requirements

The CDBG grant administration services being sought will be funded in part with federal dollars. The City will comply with 2 CFR 200, Appendix II to Part 200, and applicable funding agreements.

A.4 Small and Minority Business, Women’s Business Enterprises, and Labor Surplus Area Firms

The City of Key West is wholly committed to developing, establishing, maintaining, and enhancing minority business involvement in the total procurement process. The City, its contractors, their suppliers and subcontractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, subcontractor, vendor service, professional service, and supplier utilization. Small and minority businesses, and women’s business enterprises, and labor surplus area firms, referenced in general as MBE’s/WBE’s in this RFQ, are encouraged to participate in this RFP.

A.5 Proposed Schedule for RFP 22-007

This is a proposed schedule. The City of Key West reserves the right to change or extend the dates listed below at any time:

- **RFP Advertised** **April 07, 2023**
- **Deadline for written questions** **April 26, 2023, 3:30 p.m.**
- **RFP Submittal Due Date** **May 10, 2023, 3:30 p.m.**
- **Selection Committee Ranking** **May 17, 2023, 2:00 p.m.**  
**(in person and by Zoom)**

In person - TBD

Zoom link: <https://cityofkeywest-fl-gov.zoom.us/j/84563158887>

Meeting ID: 845 6315 8887

Passcode: 476698

- **City Commission approval** June 6, 2023
- **Agreement start date** July 1, 2023

## **B. SCOPE OF WORK AND SERVICES**

Through this RFP, the City seeks professional services from firms with expertise in CDBG grant administration. The intent is to select a consultant to assist the City of Key West with grant administration of Community Development Block Grant (CDBG) disaster recovery, mitigation, and coronavirus program funds to support the City's established grant administration effort in such areas of need as assessment/planning/reimbursement/compliance/reporting.

CDBG grant administration services includes but is not limited to the following and should be addressed in the Respondent's proposal:

- Provide technical advisory services and regulatory compliance expertise to determine eligibility of CDBG-DR, CDBG-MIT, and CDBG-CV expenses, review of contracts and purchasing documentation, oversight and guidance to guarantee compliance with United States Department of Housing and Urban Development (HUD) standards, OMB Uniform Guidance, 2 CFR, Part 200 including reporting requirements, proper audit and record keeping documentation, and Florida Department of Economic Opportunity funding agreements.
- Provide regular and frequent status reports on the City's CDBG funding.
- Assist the City with meeting financial, administrative, and bookkeeping requirements for CDBG funding, including preparation of drawdown requests.
- Assist the City with meeting record keeping requirements, including the establishment and maintenance of acceptable filing systems.
- Assist the City with contract administration and compliance monitoring requirements through coordination with City Staff.
- Assist the City with developing policies and procedures to comply with grant requirements.
- Furnish the City with the necessary tools and support, including required forms, grant administration training, and other aids, to implement project activities for awarded grants.
- Act as liaison between the City, its other consultants and contractors, and applicable regulatory and funding agencies.
- Prepare and coordinate the submission of the appropriate documents for grant closeout and completion.

## **C. RESPONSE INFORMATION**

### C.1 Response Information

The evaluation of the RFP will be based on a respondent's aptitude, experience and approach to tasks as identified herein by the City. Responses should be submitted to the address by the date and time listed in the submission details. The City will not be responsible for submittals that are delinquent, lost, mismarked, or sent to an address other than that given above. The City reserves the right, after opening the submittal, to reject any or all proposals, or to accept the proposal(s) that in its sole judgment is (are) in the best interest of the City. Also, the City will not be responsible for proposals submitted after the specified date and time.

All questions from any respondent regarding the RFP or matters relating thereto must be submitted to Carolyn Sheldon [Grants@cityofkeywest-fl.gov](mailto:Grants@cityofkeywest-fl.gov) via email no later than **3:30 p.m. on April 26, 2023**. Verbal communications, per the City’s “Cone of Silence” ordinance are not allowed. Each question must identify the section number in this RFP for which clarification is being requested. The City will respond to all properly submitted questions by addendum at least five (5) business days prior to the date that the Proposals are due. All questions will be posted as an addendum at [www.cityofkeywest-fl.gov](http://www.cityofkeywest-fl.gov) and [www.DemandStar.com](http://www.DemandStar.com).

### C.2 Submission Details

1. **Submit to:**  
  
City Clerk, City of Key West  
1300 White Street  
Key West, Florida 33040
2. **Due Date: May 10, 2023 NO LATER THAN 3:30 PM**
3. **Identification of Responses:**

Responses shall be submitted in a sealed envelope, clearly marked on the outside “**Proposals for CDBG Grant Administration Services, RFP # 22-007.**” addressed and delivered to the City Clerk at the address and by the date and time noted above.

### C.3 Number of Copies

Applicants shall submit one (1) printed copy and (2) two flash drives, each with a single PDF file of the complete proposal submitted. PDF shall be named “*Firm Name* RFP #22-007.”

### C.4 Response Preparation Costs

Response preparation costs are the applicant’s total responsibility.

### C.5 Authorized Signature

The initial response must contain the signature of a duly authorized officer or agent of the proposer’s company empowered with the right to bind the respondent to the RFP. The respondent must provide evidence of the authority of the officer or agent to bind the respondent.

### C.6 Property of the City and Period of Valid Responses

All responses and related materials provided to the City related to this RFP will become the property of the City of Key West and shall be valid for ninety (90) days from the date of submittal. The City may hold responses for a period of up to ninety (90) days without taking action.

### C.7 License Requirements

The selected respondent will also be required to obtain and maintain a City of Key West Business Tax Receipt for the duration of the work.

### C.8 Insurance /Indemnification

Per Paragraph 7.9 in Appendix A (Sample Contract)

### C.9 Cone of Silence

Pursuant to Section 2-773 of the City of Key West Code of Ordinances, as amended, a “Cone of Silence” shall be in effect during the course of a competitive solicitation. Cone of Silence Affidavit, attached hereto under Exhibit A.

### C.10 Response Evaluation

Responses will be ranked in accordance with the Selection Criteria attached hereto as Exhibit B, Selection Criteria and Scoring Worksheet.

### C.11 Response Selection Process

All complete and responsive submittals will be evaluated, scored, and ranked by a City Manager appointed selection committee at a publicly noticed meeting. The City of Key West reserves the right to ask questions, seek clarification of any or all responding firms or teams as part of its evaluation. Evaluation and ranking will be accomplished using the Selection Criteria and Scoring Worksheet (Exhibit B). Each respondent may be required to make a presentation of no more than ten (10) minutes to the City Commission; the exact length of the presentation is up to the discretion of the Commission. Final award will be made by the City Commission, based solely on that response which, in their opinion, is in the best interest of the City of Key West, all factors considered, notwithstanding the City Manager appointed selection committee ranking.

A final contract in substantial conformance with the terms contained in this RFP, including a detailed scope and fee, will be negotiated by the City Manager and executed upon consent of the City Attorney. The City reserves the right, without qualification, to exercise discretion and apply its judgment with respect to any responses submitted, as well as to reject all responses. The selected respondent must NOT be debarred from any federal and/or state agency. A review of the respondent’s status on SAM.gov will be conducted.

### C.12 Response Content

The City requires the Proposer to submit a concise narrative clearly addressing all the requirements outlined in this RFP. Responses must include, at a minimum, the following sections in the order indicated.



1. *Cover Letter* – No more than one page. [included in page limit]
2. *Information Page* – Include project name, name of vendor (prime) submitting the response, contact information for the person who will act as project manager and contact information for the person who has authority to make representations for the firm, including name, title, address, telephone and fax numbers and email addresses. [included in page limit]
3. *Organization Chart* – Show prime consultant, sub-consultants, key staff, areas of responsibility and location of personnel. [included in page limit]
4. *Company Information* – Background information about the vendor and each subcontractor and the services each provides. [included in page limit]
5. *Approach and Methodology* – Describe the firm’s plan to perform grant administration and how the firm will implement the plan taking into consideration the City’s awarded CDBG grants. Descriptions should enable the City to assess the Proposer’s capability to perform requested services in a structured and efficient manner. [included in page limit]
6. *Personnel* – Resumes of the principal(s) assigned to the project and key staff, and/or subcontractors available to support the proposed efforts.
7. *Qualifications – Representative federal financial knowledge regarding grants (from similar assignments/projects) and depth of experience of key staff* – Narrative description of similar assignments for the firm and each subcontractor connected with providing similar project work. Depth of experience of key staff/team members and demonstration of capacity to work successfully together on similar projects should be included. List a minimum of five (5) grants you administered, CDBG or other HUD-funded grants preferred, in whole or in part, during the last three (3) years. [included in page limit]
8. *Client References* – Submit at least three (3) references for similar assignments (projects) which were conducted by the team, including other agency/client’s contact names, telephone numbers, and email addresses. [included in page limit]
9. *Sworn Statements and Affidavits* – The Consultant shall have signed and returned all forms attached herein as Exhibit A (Anti-Kickback, Non-Collusion, Public Entity Crimes, Equal Benefits for Domestic Partners, Cone of Silence, Scrutinized Companies List, Indemnification).
10. *Cost Proposal* – Using the Cost Proposal form in Exhibit C, provide your cost proposal to accomplish the scope of work outlined in Section B of this RFP. The cost must include all foreseeable costs and reimbursable expenditures such as travel costs, transportation, fringe benefits, clerical support, salaries, general overhead costs, direct expenses, profit and all other out-of-pocket expenses that are deemed necessary to successfully complete these activities **with any discounts offered and future cost increases included**. Grant administration will

be by position, hourly rate, and hours per month to estimate the total cost per month, annual cost, and 5-year cost. The total estimated 5-year cost will be used for scoring purposes. However, please note that the lowest bid will not be used as the sole basis for entering into this contract.

**Total proposal length (not including required forms, addendums, resumes, Sworn Statements, or Affidavits) will not exceed 10 double (20 single) side pages.**

### C.13 Selection Criteria Details

The competitive selection process provided for this RFP will focus on the criteria set forth in Exhibit B, Proposal Ranking Form and Scoring Worksheet. Company experience, staffing, capabilities, approach and methodology, qualifications and references, cost/price, and use of MBE's/WBE's will be assessed by the Selection Committee to rank RFP submittals. Proposers shall include sufficient information to allow the Selection Committee to thoroughly evaluate and score their proposals. The contract will be awarded to the most qualified proposer per the Selection Criteria and Scoring Worksheet in Exhibit B.

Proposers are urged to review additional details regarding the selection criteria in the Scoring Worksheet in Exhibit B.

## **Exhibit A: Affidavits and Certifications**

**ANTI-KICKBACK AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I the undersigned hereby duly sworn, depose and say that no portion of the sum herein response will be paid to any employee of the City of Key West as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

BY: \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of [\_\_\_] physical presence or [\_\_\_] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

(NOTARY SEAL) \_\_\_\_\_  
(Signature of Notary Public- State of Florida)  
\_\_\_\_\_  
(Name of Notary Typed, Printed, or Stamped)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**NON-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, the undersigned hereby declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Proposal is made without any connection or collusion with any person submitting another Proposal on this Contract.

BY: \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of [\_\_\_] physical presence or [\_\_\_] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

(NOTARY SEAL) \_\_\_\_\_  
(Signature of Notary Public- State of Florida)  
\_\_\_\_\_  
(Name of Notary Typed, Printed, or Stamped)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(A)**  
**FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS,

1. This sworn statement is submitted for \_\_\_\_\_  
(print individual's name and title)

by \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is

\_\_\_\_\_  
(if the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement): \_\_\_\_\_

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "conviction" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
- a. A predecessor or successor of a person convicted of a public entity crime: or
  - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agent who are active in the management of an

affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment of income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

- 5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statute means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
  
- 6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement (indicate which statement applies).

\_\_\_\_\_ Neither the entity submitting this sworn statement, or any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH ONE (1) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER

31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR THE CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(DATE)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of [\_\_\_] physical presence or [\_\_\_] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public- State of Florida)  
(NOTARY SEAL)

\_\_\_\_\_  
(Name of Notary Typed, Printed, or Stamped)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_



**EQUAL BENEFITS FOR DOMESTIC PARTNERS AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, the undersigned hereby duly sworn, depose and say that the firm of \_\_\_\_\_  
\_\_\_\_\_ provides benefits to domestic partners of its employees on the  
same basis as it provides benefits to employees' spouses, per City of Key West Code of Ordinances  
Sec. 2-799.

By: \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of [\_\_\_] physical presence or [\_\_\_]  
online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public – State of Florida)

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of Notary Public – State of Florida)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

**CONE OF SILENCE AFFIDAVIT**

**Pursuant to City of Key West Code of Ordinances Section 2-773** (attached below)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I the undersigned hereby duly sworn depose and say that all owner(s), partners, officers, directors, employees and agents representing the firm of \_\_\_\_\_ have read and understand the limitations and procedures regarding communications concerning City of Key West issued competitive solicitations pursuant to City of Key West Ordinance Section 2-773 Cone of Silence (attached).

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

Sworn to (or affirmed) and subscribed before me by means of [\_\_\_] physical presence or [\_\_\_] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public – State of Florida)

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of Notary Public – State of Florida)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

**Sec. 2-773. Cone of Silence.**

- (a) *Definitions.* For purposes of this section, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:
- (1) *Competitive solicitation* means a formal process by the City of Key West relating to the acquisition of goods or services, which process is intended to provide an equal and open opportunity to qualified persons and entities to be selected to provide the goods or services. Competitive solicitation shall include request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RFLI"), invitation to bid ("ITB") or any other advertised solicitation.
  - (2) *Cone of silence* means a period of time during which there is a prohibition on communication regarding a particular competitive solicitation.
  - (3) *Evaluation or selection committee* means a group of persons appointed or designated by the city to evaluate, rank, select, or make a recommendation regarding a vendor or the vendor's response to the competitive solicitation. A member of such a committee shall be deemed a city official for the purposes of subsection (c) below.
  - (4) *Vendor* means a person or entity that has entered into or that desires to enter into a contract with the City of Key West or that seeks an award from the city to provide goods, perform a service, render an opinion or advice, or make a recommendation related to a competitive solicitation for compensation or other consideration.
  - (5) *Vendor's representative* means an owner, individual, employee, partner, officer, or member of the board of directors of a vendor, or a consultant, lobbyist, or actual or potential subcontractor or sub-consultant who acts at the behest of a vendor in communicating regarding a competitive solicitation.
- (b) *Prohibited communications.* A cone of silence shall be in effect during the course of a competitive solicitation and prohibit:
- (1) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the city's administrative staff including, but not limited to, the city manager and his or her staff;
  - (2) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the mayor, city commissioners, or their respective staff;
  - (3) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and any member of a city evaluation and/or selection committee therefore; and
  - (4) Any communication regarding a particular competitive solicitation between the mayor, city commissioners, or their respective staff, and a member of a city evaluation and/or selection committee therefore.
- (c) *Permitted communications.* Notwithstanding the foregoing, nothing contained herein shall prohibit:

- (1) Communication between members of the public who are not vendors or a vendor's representative and any city employee, official or member of the city commission;
  - (2) Communications in writing at any time with any city employee, official or member of the city commission, unless specifically prohibited by the applicable competitive solicitation.
    - (A) However, any written communication must be filed with the city clerk. Any city employee, official or member of the city commission receiving or making any written communication must immediately file it with the city clerk.
    - (B) The city clerk shall include all written communication as part of the agenda item when publishing information related to a particular competitive solicitation;
  - (3) Oral communications at duly noticed pre-bid conferences;
  - (4) Oral presentations before publicly noticed evaluation and/or selection committees;
  - (5) Contract discussions during any duly noticed public meeting;
  - (6) Public presentations made to the city commission or advisory body thereof during any duly noticed public meeting;
  - (7) Contract negotiations with city staff following the award of a competitive solicitation by the city commission; or
  - (8) Purchases exempt from the competitive process pursuant to [section 2-797](#) of these Code of Ordinances;
- (d) *Procedure.*
- (1) The cone of silence shall be imposed upon each competitive solicitation at the time of public notice of such solicitation as provided by [section 2-826](#) of this Code. Public notice of the cone of silence shall be included in the notice of the competitive solicitation. The city manager shall issue a written notice of the release of each competitive solicitation to the affected departments, with a copy thereof to each commission member, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.
  - (2) The cone of silence shall terminate at the time the city commission or other authorized body makes final award or gives final approval of a contract, rejects all bids or responses to the competitive solicitation or takes other action which ends the competitive solicitation.
  - (3) Any city employee, official or member of the city commission that is approached concerning a competitive solicitation while the cone of silence is in effect shall notify such individual of the prohibitions contained in this section. While the cone of silence is in effect, any city employee, official or member of the city commission who is the recipient of any oral communication by a potential vendor or vendor's representative in violation of this section shall create a written record of the event. The record shall indicate the date of such communication, the persons with whom such communication occurred, and a general summation of the communication.
- (e) *Violations/penalties and procedures.*
- (1) A sworn complaint alleging a violation of this ordinance may be filed with

the city attorney's office. In each such instance, an initial investigation shall be performed to determine the existence of a violation. If a violation is found to exist, the penalties and process shall be as provided in section 1-15 of this Code.

- (2) In addition to the penalties described herein and otherwise provided by law, a violation of this ordinance shall render the competitive solicitation void at the discretion of the city commission.
- (3) Any person who violates a provision of this section shall be prohibited from serving on a City of Key West advisory board, evaluation and/or selection committee.
- (4) In addition to any other penalty provided by law, violation of any provision of this ordinance by a City of Key West employee shall subject said employee to disciplinary action up to and including dismissal.
- (5) If a vendor is determined to have violated the provisions of this section on two more occasions it shall constitute evidence under City Code section 2-834 that the vendor is not properly qualified to carry out the obligations or to complete the work contemplated by any new competitive solicitation. The city's purchasing agent shall also commence any available debarment from city work proceeding that may be available upon a finding of two or more violations by a vendor of this section. (*Ord. No. 13-11, § 1, 6-18-2013*)

**VENDOR CERTIFICATION REGARDING  
SCRUTINIZED COMPANIES LISTS**

|  |
|--|
| Respondent Vendor Name: _____                            |
| Vendor FEIN: _____                                       |
| Vendor's Authorized Representative Name and Title: _____ |
| Address: _____   |
| City: _____ State: _____ Zip: _____                      |
| Phone Number: _____                                      |
| Email Address: _____                                     |

Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria.

AS THE PERSON AUTHORIZED TO SIGN ON BEHALF OF RESPONDENT, I HEREBY CERTIFY THAT THE COMPANY IDENTIFIED ABOVE IN THE SECTION ENTITLED "RESPONDENT VENDOR NAME" IS NOT LISTED ON EITHER THE SCRUTINIZED COMPANIES THAT BOYCOTT ISRAEL LIST, SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR THE SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST I UNDERSTAND THAT PURSUANT TO SECTION 287.135, FLORIDA STATUTES, THE SUBMISSION OF A FALSE CERTIFICATION MAY SUBJECT SUCH COMPANY TO CIVIL PENALTIES, ATTORNEY'S FEES, AND/OR COSTS AND TERMINATION OF THE CONTRACT AT THE OPTION OF THE AWARDING GOVERNMENTAL ENTITY.

|   |
|---|
| CERTIFIED BY: _____,<br><div style="display: flex; justify-content: space-around; width: 100%;"><span><i>PRINT NAME</i></span><span><i>PRINT TITLE</i></span></div> |
| WHO IS AUTHORIZED TO SIGN ON BEHALF OF THE ABOVE REFERENCED COMPANY.  |
| Authorized Signature: _____.  |

**CITY OF KEY WEST INDEMNIFICATION FORM**

PROPOSER agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, City’s Consultant, agents, servants and employees, including volunteers, from and against any and all claims, debts, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of any act or omission of the PROPOSER, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the City as a result of any claim, demands, and/or causes of action except of those claims, demands, and/or causes of action arising out of the negligence of The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, agents, servants and employees. The PROPOSER agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent. The City of Key West does not waive any of its sovereign immunity rights, including but not limited to, those expressed in Section 768.28, Florida Statutes. PROPOSER understands and agrees that any and all liabilities regarding the use of any subcontractor for services related to this agreement shall be borne solely by the PROPOSER. Ten dollars of the consideration paid by the City is acknowledged by PROPOSER as separate, good and sufficient consideration for this indemnification.

This indemnification shall be interpreted to comply with Section 725.06 and 725.08, Florida Statutes.

These indemnifications shall survive the term of this agreement. In the event that any action or proceeding is brought against the City of Key West by reason of such claim or demand, PROPOSER shall, upon written notice from the City of Key West, resist and defend such action or proceeding by counsel satisfactory to the City of Key West.

The indemnification provided above shall obligate PROPOSER to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the City of Key West’s option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the City of Key West whether performed by PROPOSER, or persons employed or utilized by PROPOSER.

The PROPOSER’s obligation under this provision shall not be limited in any way by the agreed upon Contract Price as shown in this agreement, or the PROPOSER’s limit of or lack of sufficient insurance protection.

**[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

COMPANY SEAL

PROPOSER:

\_\_\_\_\_

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NOTARY FOR THE PROPOSER

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by \_\_\_\_\_.

Signature of Notary \_\_\_\_\_ Print, Type or Stamp Name of Notary

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced

\_\_\_\_\_



**Exhibit B: Proposal Ranking Form and Scoring Worksheet**

Project Name: **CDBG Grant Administration Services**

Project Number: **RFP #22-007**

Firm

---

Date

---

| <b>SELECTION CRITERIA</b>                      | <b>POINTS ALLOWED</b> | <b>POINTS SCORED</b> |
|--|-----------------------|----------------------|
| Company experience, staffing, and capabilities | 30                    |                      |
| Approach and Methodology                       | 20                    |                      |
| Qualifications and References                  | 30                    |                      |
| Cost/Price                                     | 15                    |                      |
| Use of MBE's/WBE's                             | 5                     |                      |
| <b>Total Points</b>                            | <b>100</b>            |                      |

| EXHIBIT B  |  |                |   |                         |
|--|--|----------------|---|-------------------------|
| RFP 22-007 Scoring Worksheet: CDBG Grant Administration Services |  |                |   |                         |
| Firm Name:   |  |                |   |                         |
|  | Range of possible scores per criterion | Score assigned |   | Comments/considerations |
| <b>Company experience, staffing, and capabilities</b>            |  |                |   |                         |
| Unresponsive   | 0-4                                    |                | Submittal lacks required information to evaluate the proposal or firm demonstrates no experience in grant administration.   |                         |
| Acceptable   | 5-10                                   |                | Consultant team members have less than 5 years experience administering grants. Firm has some directly related experience and has completed limited grant administration  |                         |
| Advantageous   | 11-20                                  |                | Consultant team members have at least 5 years experience administering grants. Firm has significant experience completing multiple projects that reflect the scope in RFP Section B.  |                         |
| Highly advantageous  | 21-30                                  |                | Consultant team members have experience that surpasses aforementioned standards. Highly experienced firm has completed extensive work on complex grant administration projects. Firm has a significant track record of highly successful work demonstrating expert knowledge and skill. |                         |
| <b>Criterion score</b>   |  | <b>0</b>       |   |                         |
| <b>Approach and Methodology</b>                                  |  |                |   |                         |
| Unresponsive   | 0-4                                    |                | Submittal lacks required information to evaluate the proposal or approach and methodology are not clearly stated.   |                         |
| Acceptable   | 5-10                                   |                | Firm's approach and methodology includes a satisfactory description of a plan to perform CDBG grant administration as well as how they will implement that plan.  |                         |
| Advantageous   | 11 - 15                                |                | Firm's approach and methodology includes a clear and concise description of a plan to perform CDBG grant administration as well as implementation of that plan.   |                         |
| Highly advantageous  | 15 - 20                                |                | Firm's approach and methodology provides comprehensive planning and implementation of grant consulting services surpassing aforementioned standards .   |                         |
| <b>Criterion score</b>   |  | <b>0</b>       |   |                         |
| <b>Qualifications and References</b>                             |  |                |   |                         |
| Unresponsive   | 0-4                                    |                | Submittal lacks required information to evaluate the proposal or firm demonstrates minimal qualifications and references.   |                         |
| Acceptable   | 5-10                                   |                | Firm provided some information showing team's performance, capacity to work successfully together and depth of experience on similar assignments ; submittal includes less than 5 examples of administered grants; submittal includes 3 references                                      |                         |

| EXHIBIT B  |  |                |  |                         |
|--|--|----------------|--|-------------------------|
| RFP 22-007 Scoring Worksheet: CDBG Grant Administration Services                       |  |                |  |                         |
| Firm Name:   |  |                |  |                         |
|  | Range of possible scores per criterion | Score assigned |  | Comments/considerations |
| Advantageous   | 11-20                                  |                | Firm's narrative demonstrates team's performance, capacity to work successfully together and depth of experience on similar assignments ; submittal includes 5 examples of administered grants; submittal includes 3 references  |                         |
| Highly advantageous  | 21-30                                  |                | Firm's performance, capacity to work successfully together and depth of experience surpasses aforementioned standards demonstrating exemplary grant administration services; submittal includes 3 references   |                         |
| Criterion score  |  | 0              |  |                         |
| Cost/Price   | 0-15                                   |                |  |                         |
| Formula score between 0 & 5<br>(Score determined by formula;<br>negative score gets 0) | 0-5                                    |                | Cost scores are determined by the proposal with the lowest total cost; lowest total cost gets the maximum number of cost points; remaining proposals are rated using the following formula:<br><br>[1 - (B-A)/A] x C = Final Cost Score<br><br>A = lowest Offeror's cost<br>B = Offeror's cost being scored<br>C = maximum number of cost points available |                         |
| Formula score between 6 & 10<br>(Score determined by formula)                          | 6-10                                   |                | Cost scores are determined by the proposal with the lowest total cost; lowest total cost gets the maximum number of cost points; remaining proposals are rated using the following formula:<br><br>[1 - (B-A)/A] x C = Final Cost Score<br><br>A = lowest Offeror's cost<br>B = Offeror's cost being scored<br>C = maximum number of cost points available |                         |
| Formula score between 11 & 14<br>(Score determined by formula)                         | 11-14                                  |                | Cost scores are determined by the proposal with the lowest total cost; lowest total cost gets the maximum number of cost points; remaining proposals are rated using the following formula:<br><br>[1 - (B-A)/A] x C = Final Cost Score<br><br>A = lowest Offeror's cost<br>B = Offeror's cost being scored<br>C = maximum number of cost points available |                         |
| Lowest cost proposal<br>(Gets max points)  | 15                                     |                | Cost scores are determined by the proposal with the lowest total cost; lowest total cost gets the maximum number of cost points; remaining proposals are rated using the following formula:<br><br>[1 - (B-A)/A] x C = Final Cost Score<br><br>A = lowest Offeror's cost<br>B = Offeror's cost being scored<br>C = maximum number of cost points available |                         |
| Criterion score  |  | 0              |  |                         |

| EXHIBIT B  |  |                |  |
|--|--|----------------|--|
| RFP 22-007 Scoring Worksheet: CDBG Grant Administration Services |  |                |  |
| Firm Name:   |  |                |  |
|  | Range of possible scores per criterion | Score assigned | Comments/considerations  |
| Use of MBE's/WBE's   | 0-5                                    |                |  |
| Unresponsive   | 0                                      |                | Submittal lacks required information to evaluate the proposal or use of DBE's/MBE's is not planned.  |
| Acceptable   | 1-2                                    |                | Response includes a plan to comply with the six (6) affirmative steps outlined in 2 CFR 200.321, including requiring subconsultants to take these affirmative steps.   |
| Advantageous   | 3-4                                    |                | Response includes a plan to comply with the six (6) affirmative steps outlined in 2 CFR 200.321, including requiring subconsultants to take these affirmative steps and respondent lists 1 potential MBE/WBE to contract with.           |
| Highly advantageous  | 5                                      |                | Response includes a plan to comply with the six (6) affirmative steps outlined in 2 CFR 200.321, including requiring subconsultants to take these affirmative steps and respondent lists 2 or more potential MBEs/WBEs to contract with. |
| Criterion score  |  | 0              |  |
| Total firm score   |  | 0              |  |

## Exhibit C: Cost Proposal

Consultant Name: \_\_\_\_\_

Project Name: **CDBG Grant Administration Services**

Project Number: **RFP #22-007**

**Grant Administration Services (hourly):** Please enter staff position, all-inclusive hourly rate (that includes anticipated increases or any discounts offered over the years factored into the rate), hours per month, and total cost per month. Refer to Section C.12, Item 10 Cost Proposal.

| Staff Position   | Hourly Rate | Hours per Month | Total Cost per Month  |
|--|-------------|-----------------|-----------------------|
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
|  | \$          |                 | \$                    |
| Total Estimated Monthly Cost of Grant Administration       |             |                 | A) \$                 |
| <b>Total Estimated Annual Cost of Grant Administration</b> |             |                 | <b>(A x 12) B) \$</b> |
| <b>Total Estimated 5-Year Cost of Grant Administration</b> |             |                 | <b>(B x 5) C) \$</b>  |

**Notes:**

The Cost/Price selection criteria is scored based on a formula. The “Total Estimated 5-Year Cost of Grant Administration” price from above is what’s plugged into the formula. If the proposed cost is more than twice the lowest proposed cost, it will trigger a negative number. Negative numbers are assigned a score of zero (0) rather than using a negative number.

**Formula:**

Cost/Price scores are determined by the proposal with the lowest total cost; lowest total cost gets the maximum number of cost points; remaining proposals are rated using the following formula:

$$[1 - (B-A)/A] \times C = \text{Final Cost Score}$$

A = lowest Offeror's cost

B = Offeror's cost being scored

C = maximum number of cost points available

**APPENDIX A: SAMPLE CONTRACT**

(subject to negotiation)

**THE FOLLOWING AGREEMENT IS A  
DRAFT AGREEMENT AND SHOULD  
NOT BE FILLED OUT AS PART OF THE  
SUBMISSION PACKAGE. FINAL  
AGREEMENT WILL BE IN  
SUBSTANTIAL CONFORMANCE WITH  
THE ATTACHED**

**AGREEMENT**

**between**

**CITY OF KEY WEST**

**and**

---

**for**

**PROFESSIONAL SERVICES FOR  
CDBG GRANT ADMINISTRATION  
CONSULTANT**

**KEY WEST, FLORIDA**

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, its successors and assigns, hereinafter referred to as "CONSULTANT".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

## ARTICLE 1

### DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFP 22-007, CONSULTANT's Response to RFP dated \_\_\_\_\_, 20\_\_, exhibits, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. CONSULTANT:** The firm selected to perform the services pursuant to this Agreement.
- 1.4. Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. CITY:** City of Key West.
- 1.6. Task Order:** A detailed description of a particular service or services to be performed by CONSULTANT under this Agreement.



## **ARTICLE 2**

### **PREAMBLE**

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The CONSULTANT is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2. The CITY has selected CONSULTANT to perform the services hereunder based on the Request for Proposals \_\_\_\_\_ incorporated by reference and made a part hereof and the Response to the Request for Proposals from CONSULTANT dated \_\_\_\_\_, 20\_\_\_\_, incorporated by reference and made a part of.
- 2.3. Negotiations pertaining to the services to be performed by CONSULTANT were undertaken between CONSULTANT and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

## **ARTICLE 3**

### **SCOPE OF SERVICES AND STANDARD OF CARE**

- 3.1. CONSULTANT's services may include but are not limited to the following in regard to the Agreement:
  - 3.1.1. Grant Administration
- 3.2. CONSULTANT's services shall include comprehensive CDBG grant administration of Community Development Block Grant (CDBG) disaster recovery, mitigation, and coronavirus program funds to support the City's established grant administration effort in such areas of need as assessment/planning/reimbursement/compliance/reporting, and any other lawful professional grant services that the CONSULTANT is qualified to provide, and that the CITY authorizes the CONSULTANT to undertake in connection with this Agreement. CONSULTANT shall provide all necessary, incidental and related activities and services as required.
- 3.3. CONSULTANT and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by CONSULTANT to complete any particular task order. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed which is, in the CONSULTANT's opinion, outside the level of effort

originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If CONSULTANT proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work.

Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at CONSULTANT's sole risk.

- 3.4.** The specific services to be provided by the CONSULTANT and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT and in accordance with the Proposal attached hereto as Exhibit \_\_\_\_\_ or in accordance with the rate/fee scheduled attached hereto as Exhibit \_\_\_\_\_. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.
  - 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
  - 3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.
  - 3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the CONSULTANT's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.
  - 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to CONSULTANT. CONSULTANT shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the CONSULTANT shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
  - 3.4.5. The CONSULTANT shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to CONSULTANT.
- 3.5.** The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at

no cost to CITY and procure services from another source.

- 3.6. CONSULTANT shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in CONSULTANT'S field performing such services at the time and place where the services are provided. In the event CONSULTANT does not comply with this standard, and omissions or errors are made by CONSULTANT, CONSULTANT will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.
- 3.7. CONSULTANT is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order.

In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to CONSULTANT or any sub-consultant, CONSULTANT shall present options for their use or implementation.

#### **ARTICLE 4**

#### **TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES;**

The term of this Agreement shall be for a period of four (4) years from the effective date of the Agreement with the option of a one (1) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1. CONSULTANT shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services. Any amendment to such time period must be agreed to by CITY in writing.
- 4.2. CONSULTANT must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for CONSULTANT to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require CONSULTANT to submit any deliverables/documents for the Contract Administrator's review.
- 4.3. In the event CONSULTANT is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate.

It shall be the responsibility of CONSULTANT to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.

- 4.4.** In the event the CONSULTANT fails to substantially complete the Task Order on or before the date specified in its agreement with CITY or if Consultant is granted an extension of time beyond said substantial completion date, and CONSULTANT's services are extended beyond the substantial completion date, through no fault of CONSULTANT, CONSULTANT shall be compensated in accordance with Article 5 for all services rendered by CONSULTANT beyond the substantial completion date.
- 4.5** In the event CONSULTANT fails to substantially complete the Task Order on or before the date specified in its agreement with CITY, and the failure to complete is caused in whole or in part by a negligent act, error or omission of CONSULTANT, then CONSULTANT shall pay to CITY its proportional share of any claim or damages to Consultant or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

## **ARTICLE 5**

### **COMPENSATION AND METHOD OF PAYMENT**

#### **5.1. AMOUNT AND METHOD OF COMPENSATION**

The types of compensation methods, which shall be used to pay for the CONSULTANT's services, are limited to the following:

- 5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the CONSULTANT'S salaries, general overhead costs, direct expenses, and profit.
- 5.1.2. If Work timing deviates from the assumed schedule for causes beyond CONSULTANT's control, CONSULTANT and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change.
- 5.1.3. In the event of a change of scope, CITY shall authorize in writing an appropriate and reasonable decrease or increase in compensation.
- 5.1.4. Monthly invoicing for grant administration will be hourly based.
- 5.1.4.1. The CONSULTANT shall submit wage rates and other actual unit costs supporting the compensation. The CONSULTANT shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.
- 5.1.4.2. Hourly rates for the contract (CONSULTANT AND Sub-consultants): See attached Exhibit A.
- 5.1.5. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. CONSULTANT shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget

or work effort can be adjusted if found necessary.

- 5.1.6. CONSULTANT is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay CONSULTANT beyond these limits.
- 5.1.7. When any budget has been increased, CONSULTANT's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.
- 5.1.8. If CITY or Contract Administrator requests CONSULTANT to incur expenses not contemplated, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.
- 5.1.9. All sub-consultants' hourly rates shall be billed in the actual amount paid by CONSULTANT.

## **5.2. METHOD OF BILLING**

### **5.2.1. Lump Sum Compensation**

CONSULTANT shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, CONSULTANT shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that totals by task may be determined.

### **5.2.2. Cost (Time) Compensation**

CONSULTANT shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Appropriate CONSULTANT's cost accounting forms with a summary of charges must document internal expenses by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and rates by employee category and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

- 5.2.3. If requested, CONSULTANT shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub-consultant if CONSULTANT has not paid them timely and the services of the subcontractor or sub-consultant are necessary

to complete the Work.

**5.3. METHOD OF PAYMENT**

5.3.1. CITY shall pay CONSULTANT within forty-five (45) calendar days from receipt of CONSULTANT's proper invoice with documentation as provided above.

5.3.2. In the event CONSULTANT has utilized a Sub-consultant to perform the Work, CONSULTANT will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to CONSULTANT.

5.3.3. Payment will be made to CONSULTANT at:

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Address

\_\_\_\_\_

**ARTICLE 6**

**CITY'S RESPONSIBILITIES**

**6.1.** CITY shall assist CONSULTANT by placing at CONSULTANT's disposal all information CITY has available pertinent to the Task Order including previous reports and any other relative data.

**6.2.** CITY shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.

**6.3.** CITY shall review the CONSULTANT's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.

**6.4.** CITY shall give prompt written notice to CONSULTANT whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of any Contract.

**ARTICLE 7**

**MISCELLANEOUS**

**7.1. OWNERSHIP OF DOCUMENTS**

Any and all records provided or created in connection with this Agreement are and shall remain property of CITY. All finished or unfinished documents, data, data matrices,

analyses, compiled information and calculations generated and used to evaluate and compute the material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs, analyses, compiled information and reports prepared or provided by CONSULTANT in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. CONSULTANT agrees to perform all actions reasonably requested by CITY (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments). Upon completion of this Agreement or Termination by either party, any and all records relating to the Agreement in the possession of CONSULTANT shall be delivered by the CONSULTANT to the CITY, at no cost to the CITY, within ten (10) days. All such records stored electronically by CONSULTANT shall be delivered to CITY in a format compatible with the CITY'S information technology systems. If applicable, CITY may withhold any payments then due to CONSULTANT until CONSULTANT complies with the provisions of this Article. CONSULTANT is not responsible for damages caused by the unauthorized re-use by others of any of the materials for another Task Order.

## **7.2. TERMINATION**

7.2.1. This Agreement may be terminated with or without cause by CITY at any time.

7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.

7.2.3. In the event this Agreement is terminated, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

## **7.3. AUDIT RIGHT AND RETENTION OF RECORDS**

7.3.1. CITY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to any Task Order. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to

CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, CONSULTANT shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

#### **7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS**

7.4.1. CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. CONSULTANT shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners.

#### **7.5. PUBLIC ENTITY CRIMES ACT**

7.5.1. CONSULTANT represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, architect or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or architect under a contract with CITY, and may not transact any business with CITY in excess



of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5.3. CONSULTANT shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

## **7.6. SUB-CONSULTANTS**

CONSULTANT may use the sub-consultants identified in the proposal that was a material part of the selection of CONSULTANT to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. CONSULTANT shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

Hourly rates for such said Sub-consultants are as on attached Exhibit A. The CONSULTANT shall be responsible for all payments to any subconsultants and shall maintain responsibility for all work related to the services provided.

## **7.7. ASSIGNMENT AND PERFORMANCE**

7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and CONSULTANT shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.

7.7.2. CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide

and perform such services to CITY's satisfaction for the agreed compensation.

7.7.3. CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.

7.7.4. CONSULTANT shall not change or replace overall project manager identified in the CONSULTANT's response to the RFP without the Contract Administrator's prior written approval.

## **7.8. INDEMNIFICATION OF CITY**

7.8.1. To the fullest extent permitted by law, the CONSULTANT expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of CONSULTANT's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.

7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the CONSULTANT or of any third party to whom CONSULTANT may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

## **7.9. INSURANCE**

7.9.1. CONSULTANT is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the CONSULTANT shall provide the minimum limits of liability insurance coverage as follows:

|                        |             |                         |
|------------------------|-------------|-------------------------|
| Auto Liability         | \$1,000,000 | Combined Single Limit   |
| General Liability      | \$2,000,000 | Aggregate (Per Project) |
|                        | \$2,000,000 | Products Aggregate      |
|                        | \$1,000,000 | Any One Occurrence      |
|                        | \$1,000,000 | Personal Injury         |
|                        | \$ 300,000  | Fire Damage/Legal       |
| Professional Liability | \$2,000,000 | Per Claim / Aggregate   |

7.9.2. CONSULTANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies— excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. CONSULTANT will maintain the Professional Liability insurance coverage summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the CONSULTANT shall maintain complete worker’s compensation coverage for each and every employee, principal, officer, representative, or agent of the CONSULTANT who is performing any labor, services, or material under the Contract. Further, CONSULTANT shall additionally maintain the following minimum limits of coverage:

|                           |                           |
|---------------------------|---------------------------|
| Bodily Injury by Accident | \$1,000,000 each accident |
| Bodily Injury by Disease  | \$1,000,000 policy limit  |
| Bodily Injury by Disease  | \$1,000,000 each employee |

7.9.4. USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage not applicable to this RFP.

7.9.5. CONSULTANT shall give 30 days written notice to the City of Key West in the event of cancellation or material change.

7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.

7.9.7. CONSULTANT will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. CONSULTANT will notify City of Key West immediately by telephone at (305) 809-3741 any accident or injury to anyone that occurs on the jobsite and is related to any of the

work being performed by the CONSULTANT.

7.9.8. It shall be the responsibility of the CONSULTANT to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of CONSULTANT.

7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the CONSULTANT shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the CONSULTANT to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the CONSULTANT to take out and/or maintain any required insurance shall not relieve the CONSULTANT from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the CONSULTANT concerning indemnification.

#### **7.10. REPRESENTATIVE OF CITY AND CONSULTANT**

7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon CONSULTANT 's request, subject to approval of the CITY MANAGER, shall advise CONSULTANT in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

7.10.2. CONSULTANT shall inform the Contract Administrator in writing of CONSULTANT 's representative to whom matters involving the conduct of the Task Order shall be addressed.

#### **7.11. ALL PRIOR AGREEMENTS SUPERSEDED**

7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

#### **7.12. NOTICES**

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to

the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR THE CITY OF KEY WEST:

City of Key West  
Attn: City Manager  
1300 White Street  
Key West, FL 33040

With copies to:

Carolyn Sheldon  
Contract Administrator  
P.O. Box 1409  
Key West, FL 33041

FOR CONSULTANT:

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7.13. TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

**7.14. INTERPRETATION**

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such

Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

## **7.15. CONSULTANT'S STAFF**

- 7.15.1. CONSULTANT shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in CONSULTANT's employment. Key Staff as referenced in this agreement shall mean [...]
- 7.15.2. CONSULTANT shall obtain prior written approval of Contract Administrator to change key staff. CONSULTANT shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. Contract Administrator may request removal of any of CONSULTANT's staff at his or her discretion with approval of City Manager or his or her designee.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the CONSULTANT, the CONSULTANT will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the CONSULTANT must obtain the CITY Representative's prior written approval.
- 7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the CONSULTANT shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned subject to section 7.15.
- 7.15.8. The CONSULTANT shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The CONSULTANT shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.
- 7.15.9. The CONSULTANT shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

## **7.16. INDEPENDENT CONTRACTOR**

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

## **7.17. THIRD PARTY BENEFICIARIES**

Neither CONSULTANT nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

## **7.18. CONFLICTS**

7.18.1. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

7.18.2. CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

7.18.3. In the event CONSULTANT is permitted to use sub-consultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such sub-CONSULTANT from having any conflicts as within the meaning of this section, and shall so notify them in writing.

## **7.19. CONTINGENCY FEE**

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement

without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

## **7.20. WAIVER OF BREACH AND MATERIALITY**

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

## **7.21. COMPLIANCE WITH LAWS**

CONSULTANT shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement and shall obtain all required permits from all jurisdictional agencies to perform the services under this Agreement at its own expense. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

## **7.22. SEVERABILITY**

In the event this Agreement or a term or a portion of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the fullest extent permitted by law unless CITY or CONSULTANT elects to terminate this Agreement.

## **7.23. JOINT PREPARATION**

Preparation of this Agreement has been a joint effort of CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

## **7.24. PRIORITY OF PROVISIONS**

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.



## **7.25. APPLICABLE LAW AND VENUE**

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, litigation or any other legal proceeding shall be Monroe County, Florida, Lower Keys Division of the Circuit Court or the Southern District of Florida. This Agreement is not subject to arbitration.

## **7.26. INCORPORATION BY REFERENCE**

The attached exhibits are incorporated into and made a part of this Agreement:

Exhibit A – CONSULTANT/Sub-consultants' Hourly Rates

Exhibit B – Appendix II to Part 200

Exhibit C – RFP 22-007

Exhibit D - CONSULTANT's Response to RFP 22-007

Exhibit E – Grant Administration Task Order

## **7.27. SURVIVAL OF PROVISIONS**

Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

## **7.28. COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

By: CITY OF KEY WEST

By: CONSULTANT

\_\_\_\_\_  
Albert P. Childress, City Manager

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Attest:

\_\_\_\_\_  
Cheryl Smith, City Clerk

**Exhibit A  
Hourly Fee Schedule**

**Company Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Position Title**

**Hourly Rate**

## **Exhibit B**

### **Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319, 12935, 3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act ([42 U.S.C. 7401-7671q.](#)) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#)) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in

connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See [§ 200.323](#).

(K) See [§ 200.216](#).

(L) See [§ 200.322](#).

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75888](#), Dec. 19, 2014; [85 FR 49577](#), Aug. 13, 2020]



City of Key West  
1300 White Street, Key West, FL, 33040 (305) 809-3700

## ADDENDUM NO. 1

### CDBG Grant Administration Services RFP # 22-007

This addendum is issued as supplemental information to the bid package for clarification of certain matters of both a general and technical nature.

#### **QUESTIONS/CLARIFICATIONS:**

##### Question 1

Does the City have an existing CDBG-DR, CDBG-CV and CDBG-MIT consultant?

##### Response 1

No

##### Question 2

What are the expenditure deadlines for each grant agreement?

##### Response 2

The Period of Agreement end dates are as follows:

IR008 – 06/30/2024

IR037 – 07/12/2026

IR043 – 11/01/2026

MT010 – 10/21/2026

MT011 – 08/03/2026

MT050 – 11/01/2026

MT051 – 11/09/2026

22CV-S14 – 09/30/2023 (pending approval of two-year extension to 09/30/2025)

##### Question 3

Has the City began administering any of the funds? Are any projects underway?

##### Response 3

Yes, administering these funds has begun to comply with reporting requirements and environmental review. Environmental Exempt Activities have been approved for all projects. All projects, with the exception of MT010 and MT011, must have a higher level of environmental review which is underway in various stages. None of the agreements have been issued the Authority to Use Grant Funds.

Yes, all projects are underway in various stages. The following projects are also funded with FEMA Hazard Mitigation Grant Program (HMGP) funds: IR008, IR037, and IR043. MT010 is also funded with FDEP Resilient Florida Programs funds.

Question 4

If awarded, would the prospective responding firm be precluded from performing the work funded by any of these grants?

Response 4

As long as the bid and bidder are responsible and responsive, it should be considered.

Question 5

Under the different contracts, will any of the grant funds be used to make grants to smaller entities (community groups, City partners, non-profits, etc.) or will all expenditures be used directly for City projects?

Response 5

All expenditures will be used directly for City projects.

Question 6

What projects have been identified through the funding from these agreements:

- CDBG-DR: IR008, IR037
- CDBG-MIT: MT010, MT011, MT050, MT051, IR043
- CDBG-CV: 22CV-S14
- Is each agreement tied to a different project or can multiple agreements be used to fund the same project?

Response 6**CDBG-DR:**

IR008 (implementation/engineering services) Force Main relocation

IR037 (construction) Force Main relocation

**CDBG-MIT:**

MT010 (planning) Key West Comprehensive Adaptation and Resilience Implementation Plan (CARIP)

MT011 (planning) Duval Street Economic Corridor Resiliency and Revitalization Plan

MT050 (implementation/design/construction) Fogarty and 3<sup>rd</sup> Pump Station

MT051 (implementation/construction) Tide Valves and Outfall Improvements

IR043 (construction) Harris and 10<sup>th</sup> Outfall

**CDBG-CV:**

22CV-S14 (construction) John Jones Navigation Center (formerly known as Keys Overnight Temporary Shelter or KOTS)

IR008 and IR037 fund the same project but different phases of that project. Other than IR008 and IR037, each project is funded with its own agreement.

Question 7

Can the City specify what funding and projects have been awarded in relation to COVID-19?

Response 7

In relation to COVID-19, there is only one agreement awarded to the City - 22CV-S14 for \$4,300,000 to assist with the construction of a new homeless shelter.



Additional information:

The earliest meeting for City Commission approval of the Selection Committee Ranking is June 8, 2023.

All Bidders shall acknowledge receipt and acceptance of this **Addendum No. 1** by submitting the addendum with their proposal as a required form. Proposals submitted without acknowledgement or without this Addendum may be considered non-responsive.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Business